

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 98-0492P

Gross Income Tax

Calendar Years 12/31/93, 12/31/94, and 12/31/95

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ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer is incorporated in Delaware with headquarters in Pennsylvania. It has a sales office in Carmel and inventory at rented storage facilities in Hammond and Burns Harbor, Indiana.

An audit completed on June 2, 1998 assessed additional gross income for a division that maintained its inventory in Indiana and sold this inventory exclusively to one customer in Indiana.

Taxpayer protests the penalty and states it has tried to fairly report low rate sales for gross income tax as evidence by filing an amended return for 1995.

I. **Tax Administration** –Penalty

DISCUSSION

Taxpayer was assessed a negligence penalty for failure to report low rate income from sales made to an Indiana customer from inventory stored in Indiana.

Taxpayer states it had amended its return for 1995, had cooperated with the auditor, and had tried to fairly report gross income.

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Taxpayer's request for penalty waiver is disallowed as it made no correction for 1993 and 1994 and the assessment for clearly taxable sales amounted to seventy five Percent (75%) of the tax due.

Taxpayer has not demonstrated reasonable cause for failing to report Indiana income.

FINDING

Taxpayer's protest is denied.